

House Bill 972

By: Representatives Mitchell of the 88th, Willard of the 49th, Jacobs of the 80th, Brooks of the 63rd, Williams of the 89th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to foreclosure in general, so as to change the time for the delivery of a notice of the initiation of foreclosure proceedings; to provide, under certain circumstances, for an opportunity, prior to foreclosure, for a debtor to cure a foreclosure and bring the debt current by making all past due payments along with any late fees and charges; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to foreclosure in general, is amended by revising Code Section 44-14-162.2, relating to sales made on foreclosures under the power of sale, mailing or delivery of notice to debtor, and procedure, as follows:

"44-14-162.2.

(a) Notice of the initiation of proceedings to exercise a power of sale in a mortgage, security deed, or other lien contract shall be given to the debtor by the secured creditor no later than ~~30~~ 90 days before the date of the proposed foreclosure. Such notice shall be in writing, shall include the name, address, and telephone number of the individual or entity who shall have full authority to negotiate, amend, and modify all terms of the mortgage with the debtor, and shall be sent by registered or certified mail or statutory overnight delivery, return receipt requested, to the property address or to such other address as the debtor may designate by written notice to the secured creditor. The notice required by this Code section shall be deemed given on the official postmark day or day on which it is received for delivery by a commercial delivery firm.

(b) Nothing in this subsection Code section shall be construed to require a secured creditor to negotiate, amend, or modify the terms of a mortgage instrument; provided, however, that during the 90 day notice period, the debtor shall have a right to cure the foreclosure by

paying the creditor the full amount of past due payments along with any late fees and charges so as to bring the debt current. In the event that the debtor tenders such past due sums and late fees and charges, the creditor shall not proceed with foreclosure and shall permit the debtor to resume making payments under the terms of the contract. The guaranteed opportunity to cure foreclosure provided in this subsection shall not be available to a debtor during the first 12 months of a mortgage agreement. Moreover, the guaranteed opportunity to cure foreclosure shall not be available to a debtor more than once every 24 months and, in any event, no more than a total of three times during an existing mortgage.

~~(b)~~(c) The notice required by subsection (a) of this Code section shall be given by mailing or delivering to the debtor a copy of the notice of sale to be submitted to the publisher."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.